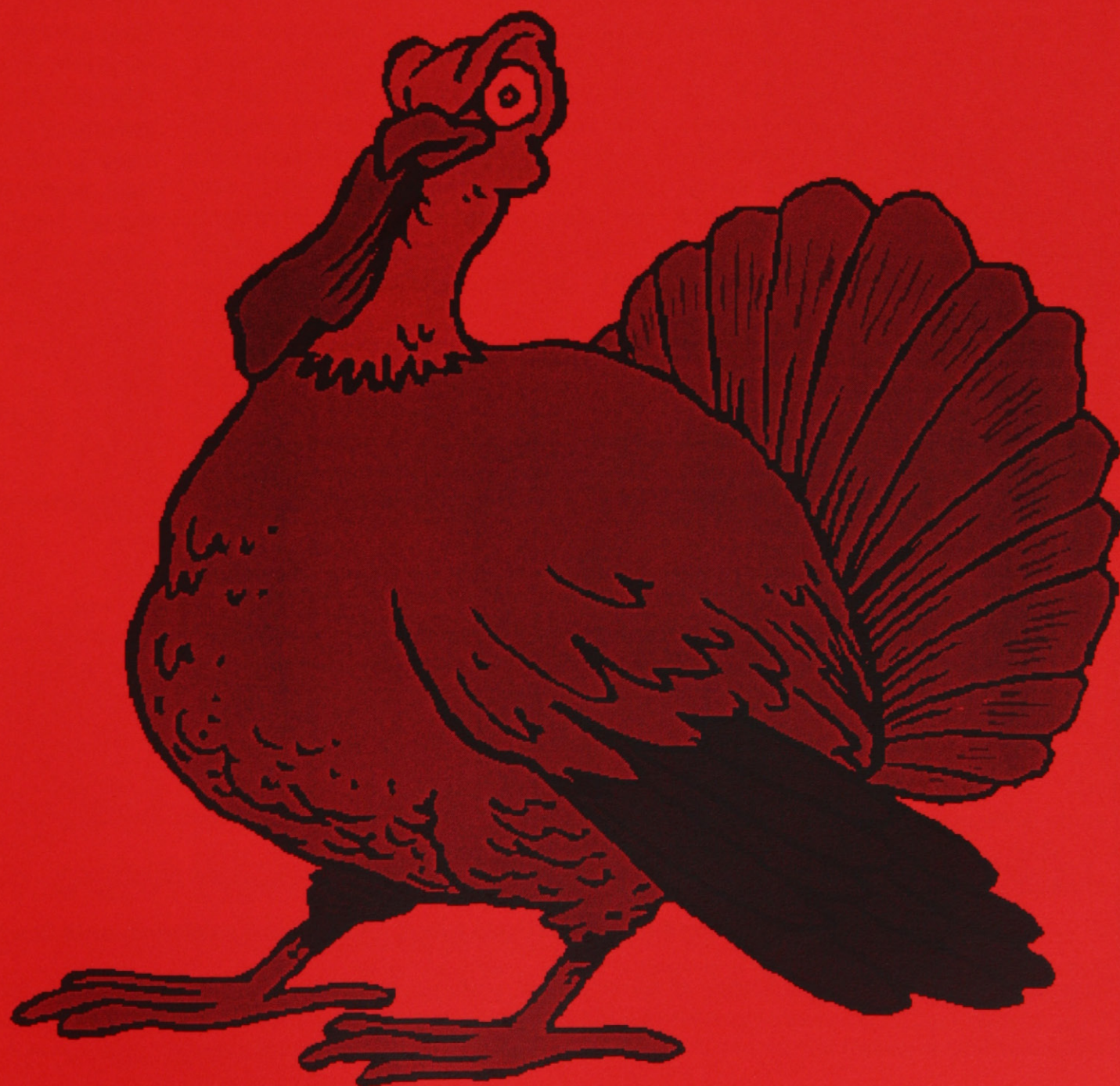


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## Éditorial/Editorial Perhaps Yes, Perhaps No: The Art of Getting to Maybe by Courtney Retter (LAW II)

*Chase Barlet's article in last week's Quid, "Finals and Follies: A 1L's Take," struck a chord within me. Particularly when he said the following in reference to the faculty's looming examinations: "I find no entertainment in the vacuum of uncertainty in which I am now suspended." I would like to address Chase's concerns by demystifying the law school exam slightly.*

In the fall of 2008, I embarked on my law school journey with a gift. My brother's fiancée, a recent graduate of our faculty, gave me her copy of *Getting to Maybe: How to Excel on Law School Exams*, written by Richard Michael Fischl and Jeremy Paul. She swore to me that it "revolutionized her way of studying." I laughed, thanked her, and strategically "misplaced" the book. *I mean, self-help books are for losers who are reading about life as opposed to living it, right?* I only "found" the book again in July 2009...after having written two sets of law school exams.

*continued on p. 21*

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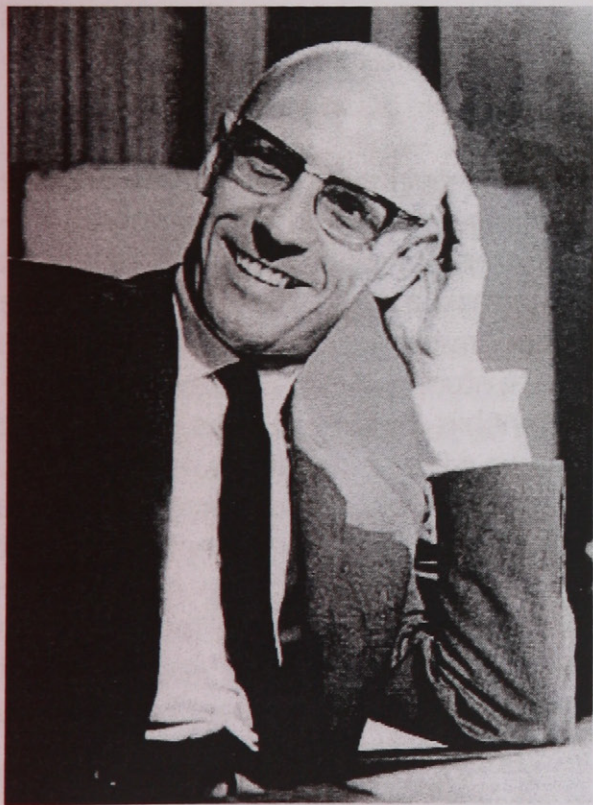


# L'avatar contemporain de l'intérêt

by Marc James Tacheji (LAW I)

**Dear Quid Novi Reader: Please note the following article was intended on being published in last week's issue (November 17th, 2009). The Quid would like to apologize to the author for this error.**

Il y a de cela deux semaines, le *QUID* a publié mon premier essai. Il s'agissait dans ce dernier de proposer une hypothèse sur la genèse de l'« homme normal » dans le droit français<sup>1</sup>. Pour ce faire, j'avais pris pour point évènementiel l'article 64 du Code pénal de 1810, article permettant – appelant, même – l'ingérence de la psychiatrie dans le droit. À partir de ce moment historique, j'ai tenté de démontrer, m'inspirant des travaux de Canguilhem et de Foucault, certaines pétitions supplémentaires du domaine psychiatrique dans le domaine légal. À mon sens, à travers l'immixtion de l'expertise psychiatrique et du droit, il est apparu que



ce n'est plus le psychiatre qui occupe le

rôle médian, mais bien le juge qui prend la forme ambiguë du médiateur entre une idéologie dominante (exprimée, entre autres, au travers d'une expertise clinique) et le corps du criminel.

L'article, à mon grand étonnement et à mon grand bonheur, a provoqué un certain intérêt, et j'ai été très content de recevoir avis, critiques et commentaires. À présent, j'aimerais répondre aux plus intéressants de ces commentaires.

D'abord, j'avais dit (reprenant par le fait même une thèse exposée par Foucault entre 1974 et 1976), que le pouvoir devait, au XVIII<sup>e</sup> siècle, trouver un critère pour appliquer la punition et que ce critère a été l'« intérêt ». On m'a demandé en quoi on peut prétendre que l'intérêt n'existait pas avant le 18<sup>e</sup> siècle et comment on peut dire que le pouvoir crée « l'intérêt ». On m'a également reproché de ne pas parler de droit ou, du moins, de m'éloigner d'une certaine orthodoxie juridique. *Mea culpa*.

Ces questions étant excessivement intéressantes, complexes, et déstabilisantes, je n'ai pas pu m'empêcher d'y revenir constamment au cours de cette dernière semaine. Aussi, je voudrais un peu adresser les interrogations ci-dessus et voir ce qu'on peut encore en dire.

Par rapport à la première question, je ne peux que répondre qu'on ne crée pas l'« intérêt », pas plus qu'on ne la trouve, d'ailleurs... Mon choix de terme était peut-être mauvais, une licence poétique, disons. On peut cependant faire émerger la notion d'intérêt. L'homme, le vivant, est essentiellement

un corps. Aussi, pour avoir une emprise sur ce corps, le pouvoir doit intensifier certains éléments qu'on pourrait qualifier d'artifices (au sens de non-naturalisme, d'éléments non physiques, ce qui ne rend pas ces artifices moins réels, au contraire)<sup>2</sup>. L'« intérêt » a toujours existé, certes, et ce, au même titre que d'autres notions tels l'« *ethos* », la « volonté », l'« âme », la « chair », la « terre », l'« utilité », la « force productive », le « besoin », le « désir », la « sexualité<sup>3</sup> », etc<sup>4</sup>. C'est sur ces différents artifices que le pouvoir aura prise pour gouverner les corps dans leur matérialité. Aussi, différentes rationalités affirmeront leur force grâce à différents artifices : l'institution ecclésiastique a su faire usage de l'âme, les scolastiques ont exercé leur force sur la volonté et la chair, la rationalité contractuelle a repris la question de la volonté à sa façon, la force productive trouve son lieu de prédilection dans la rationalité mercantiliste, l'utilité parcourt la pensée occidentale depuis Platon jusqu'aux utilitaristes qui nous sont contemporains, et ainsi de suite. Donc non, l'intérêt n'a pas été créé ou trouvé, mais plutôt « réactualisé ».

À présent, en quoi ces questions sont-elles pertinentes pour un juriste ? Sincèrement, à première vue, je dois avouer que je ne le sais pas non plus.

Cependant, si l'on regarde de plus près, on s'aperçoit que l'intérêt préoccupait bel et bien le droit. Au milieu du XVIII<sup>e</sup> siècle par exemple, lorsque Blackstone pose la question du contrat social, ce n'est pas en termes de propriété (Locke), en termes de liberté (Rousseau) ou en termes de volonté, mais bien en termes d'intérêts<sup>5</sup>. Ce n'est plus, comme chez Rousseau, la

1 À mon sens, je le répète, il serait très intéressant de faire le même exercice par rapport à la *common law*.

2 C'est en ce sens, je crois, qu'on peut aujourd'hui se permettre de dire qu'« il existe (...) entre la personne et son corps, un ordre public dont elle ne peut disposer », dans E. Deleury et D. Goubau, *Le droit des personnes physiques*, 3<sup>e</sup> éd., Cowansville (Qc), Yvon Blais, 2002, p. 99. Par rapport, plus précisément à la question de l'intérêt, on dira que « Dans l'intérêt général et en vue du bien-être collectif, la loi permet en effet, dans certains cas, d'imposer des atteintes au corps humain ». *Ibid*, p. 100. La question de l'intégrité (en supplément à la dignité) dont traitent Deleury et Goubau mériterait d'être analysée en profondeur.

3 Nommément, au sens avec lequel la littérature féministe traite la question.

4 La liste n'est pas exhaustive et je reconnais que chacun de ces termes requiert sa propre analyse; surtout la notion de volonté.

5 Elie Halévy, *La formation du radicalisme philosophique, tome 1 : la jeunesse de Bentham, 1776-1789*, Paris, PUF, 1995, p. 101.



liberté que l'on sacrifie en vue d'en sauvegarder le nécessaire. Ce n'est plus, comme chez Hobbes, le pouvoir. C'est l'intérêt. Cette notion apparaît dès lors comme un principe empirique du contrat. Le sujet de droit qui se constitue au travers du contrat, c'est également le sujet de l'intérêt : le sujet devenu calculateur, rationalisé.

Nous sommes donc passés, en l'espace de 100 ans, du *lupus* de Hobbes au *vulpes*, renard rusé, calculateur, qui nous est plus contemporain. Pour Blackstone, comme pour Hume d'ailleurs<sup>6</sup>, si l'on respecte le contrat, ce n'est pas parce qu'il y a contrat, mais d'abord parce qu'il y a intérêt à ce qu'il y ait contrat. Le sujet d'intérêt existe avant la loi. S'il est la condition de possibilité de la loi, il en devient également un objet privilégié<sup>7</sup>.

La raison gouvernementale aura désormais à agir sur l'« intérêt ». Très bien... et puis ? On pourrait encore très bien me demander en quoi ceci est sensé intéresser le droit, et on n'aurait pas nécessairement tort. Le problème est, je crois, qu'on continue à penser la structure contemporaine par rapport à celle qui lui a immédiatement précédé. Le néolibéralisme, c'est bien la réponse au libéralisme, non ?

*Non.* En fait, j'ai l'impression qu'en réfléchissant de façon linéaire (une période succède à une autre), on oublie immédiatement les multiples facettes de notre tradition, ainsi que la manière avec laquelle ces facettes ont évolué les unes par rapport aux autres, se sont recouvertes ou recoupées les unes les autres. Ce faisant, on perd de vue la notion d'intérêt : elle ne paraît plus centrale à la question. Cependant, elle l'est. Je m'explique.

Le mouvement libéral s'est fait en réaction aux problèmes internes à la logique

mercantiliste. Cette transformation a été plusieurs fois étudiée et je n'ai pas l'intention, ici, d'y rester plus longtemps qu'il ne le faut. Un élément est à noter cependant. C'est que cette transformation n'a pas été aussi radicale qu'elle ne le paraît.

La pensée mercantiliste, en (grossièrement) bref, était centrée sur l'accumulation de richesse. Aussi était-il du ressort de l'État d'intervenir en vue de fixer le meilleur prix (le prix juste) pour assurer le maintien du commerce et l'enrichissement de l'État par l'accumulation monétaire. La critique libérale porta principalement sur ce point. Les libéraux affirmeront, par exemple, qu'en intervenant dans le marché et en fixant le prix juste, le mercantiliste, plutôt que d'éviter la disette, transforme inévitablement celle-ci en famine. Effectivement, pourquoi est-ce que *moi*, producteur de grain, j'accepterais de vendre pour  $x\$$  en période de difficulté économique ce que je sais que je pourrais vendre à  $5x\$$  plus tard ? Alors, je stocke mes biens en attendant la prospérité, le prix plus favorable à mon égard. Cependant, ce faisant, je ne fais qu'aggraver la situation : je ne fais qu'accentuer la disette, je ne fais que garantir une nouvelle intervention de l'État et une nouvelle diminution des prix qui, en retour, me mènera à stocker mon produit plus longtemps.

Le miracle des libéraux a été de découvrir le « prix du marché » en réponse au « prix juste » des mercantilistes. Le « prix du marché », ou « prix naturel », est apparu à la conscience libérale du moment qu'on s'est aperçu que, dans la négociation entre producteur et consommateur, un prix s'établissait par soi-même, sans intervention externe. La logique du gouvernement libérale en (grossièrement, encore) bref, a été de s'autolimiter pour permettre au marché de produire ses « vrais prix » aussi na-

turellement que possible. À partir de cette logique (développée à merveille chez Bentham<sup>8</sup>), le gouvernement passe de l'interventionnisme à la surveillance et au « laisser-fairisme ».

Ce qu'il faut savoir cependant, c'est que la pensée libérale était encore occupée par cette phobie de la disette et de la famine. En ce sens, le prix naturel était recherché en vu, non pas de l'affirmation de l'intérêt, mais pour éviter le *besoin*. On n'obtient donc toujours pas le plan juridique permis par la question de l'intérêt. L'analyse libérale classique de la question du *travail* est un exemple de la primauté du *besoin* au sein de cette pensée. Chez Adam Smith, par exemple, on traite de l'importance de la division du travail et du lien entre « travail individuel » et « richesse étatique », mais on ne spécifie toujours pas ce qu'est le travail, selon quel *intérêt* ce concept fonctionne. Il en va de même chez Ricardo. Celui-ci parlera de l'importance de l'augmentation du travail, mais jamais de l'intérêt du travail en soi. Pour Keynes, encore, le travail est facteur de production étatique, mais en soi, il n'est rien d'autre. On règlera, donc, autour du travail, mais on règlera en vue d'éviter le *besoin*.

En revanche, dans la pensée néolibérale, la problématisation du travail prend une posture essentiellement « intéressée ». Robbins, en 1932, dit de l'économie que c'est « the science which studies human behaviour as a relationship between ends and scarce means which have alternative uses<sup>9</sup> ». Désormais, le travail a pour tâche l'analyse du comportement humain et de la rationalité interne de ce comportement. Dorénavant, l'analyse devra dégager le calcul et le raisonnement dirigeant le comportement humain vers le travail plutôt que vers autre chose.

<sup>6</sup> Voir David Hume, *Quatre Essais politiques*, texte anglais et trad. Française, Gérard Granel, dir., Toulouse, Trans-Europ-Repress, 1981, p.17.

<sup>7</sup> On pourrait cependant m'objecter, et on n'aurait pas tort, je crois, que la théorie *dominante* du contrat reste aujourd'hui la théorie traditionnelle, c'est-à-dire celle fondée sur la volonté des parties (le *meeting of the minds*). En ce sens, la question de l'intérêt ne serait toujours pas centrale. Notons cependant l'énorme mouvement contemporain qui tente de se distancier de la théorie traditionnelle désormais désuète. Voir, par exemple, les théories de Slawson, de MacNeil, de Feinman et de Slawson, ainsi que des arrêts tels *Oglebay Norton Co. v. Armco Inc* (1990). On voit, en ce sens, une importance grandissante de la *reliance* (notion qui appelle l'intérêt) aux dépens de la volonté explicite. Aussi, veuillez pardonner mon trop peu de connaissance dans le domaine.

<sup>8</sup> Plus précisément, le panoptique de Bentham est une structure permettant une surveillance permanente aussi économique que possible. D'autant plus que cette surveillance devient, en elle-même, une technique de répression : se sentant en permanence visible aux yeux du pouvoir, on hésite à transgresser les lois.

<sup>9</sup> Lionel C. Robbins, *Essay on the Nature and Significance of Economic Science*, Londres, Macmillan, 1962 (1ère éd. 1932), p. 16.



Lorsque Schultz et Becker<sup>10</sup> posent, dans un contexte néolibéral, la question du travail, ils parviennent à une réponse qui nous semble beaucoup plus près de nos valeurs : on travaille pour un salaire, on travaille pour un revenu. Aussi, si le salaire est un revenu, ce revenu est celui d'un capital. Et ce capital investi, c'est le travailleur lui-même avec tout son ensemble de facteurs physiques, psychologiques, émotionnels, etc. Le capital est désormais indissociable de celui qui le détient. L'unité fondamentale, l'atome dans la logique néolibérale, c'est l'*homo œconomicus*, c'est l'homme « entreprise de soi-même ». C'est ce que la France, depuis 1985, est en droit d'appeler la société unipersonnelle. Dans la logique néolibérale, l'homme n'échange pas pour combler un *besoin*, il est concurrentiel pour garantir son *intérêt*.

Où sont les questions de droit ? Mon expérience dans le domaine est très peu extensive, et en ce sens, je ne voudrais pas trop m'avancer. À première vue cependant, on voit que, tout comme la volonté, l'âme, la terre, le besoin et la sexualité, l'*intérêt* a également produit toute une série de nouvelles questions qui devaient trouver leur réponse législative. En voici quelques exemples.

Qu'est-ce que le capital dès lors qu'on le conçoit comme indissociable de l'homme ? Le capital est d'abord inné. Il est le corps, l'apparence, la résultante héréditaire, etc. En ce sens émerge toute une série de questions de droit qui n'avaient aucunement lieu de se poser avec autant de force auparavant. Tout à coup émergent des questions d'eugénisme et de génétique, de dispositifs correcteurs du « mauvais capital génétique ». On retrouve également toute la série de questions légales entourant la chirurgie esthétique et l'intégrité physique<sup>11</sup>. On voit également l'importance, pour les femmes, de la question de l'avortement. La santé,

également, devient un bien marchand. Il ne s'agit désormais plus de ne pas être malade, de combler la maladie pour revenir à un état de santé, mais de toujours rechercher un état de plus-santé, un état de santé concurrentiel. Apparaît également la question de la santé publique.

Poursuivant, si le capital humain est partiellement inné, il est également partiellement acquis. La formation scolaire, professionnelle ou universitaire, devient un bien marchand négociable sur la scène concurrentielle néolibérale. Apparaît dès lors la question de l'investissement public dans l'éducation. La mobilité, également, est une forme intéressée d'investissement. Le migrant est un investisseur. Interviennent à ce niveau toute une série de règlementation pour assurer l'immigration, la facilitation des flux migratoires, l'insertion sociale, etc.

Le pouvoir, avec le droit comme un de ses mécanismes majeurs, semble aujourd'hui agir à partir de l'intérêt. Ce faisant, il déploie les conséquences d'une réactualisation datant du XVIII<sup>e</sup> siècle. Du moins est-ce ce que j'ai essayé de démontrer. La notion d'« intérêt » est apparue avec la

sophistication du pouvoir, c'est-à-dire avec sa transition depuis le faste et le superflu (à l'époque des monarchies) vers l'économique et l'utilitaire (depuis les Lumières)<sup>12</sup>. Le libéralisme traînait encore de la patte, croulant sous le poids des craintes infusées en ses penseurs par les problématiques mercantilistes. Le néolibéralisme cependant, enrichissant la pensée libérale par la notion d'« intérêt », a produit l'*homo œconomicus*, c'est-à-dire l'homme entreprise, la société unipersonnelle. À l'heure actuelle, semble-t-il, nous sortons (très doucement faut-il croire) de ce paradigme. Aussi faut-il se méfier de croire qu'on « retourne vers » une logique précédente. Nous ne « retournons » pas vers l'interventionnisme étatique. Plutôt, nous réactivons des concepts passés pour servir des fins contemporaines. En ce sens, il ne s'agit pas de se demander « vers quoi » nous avançons ; pas plus que « pourquoi » nous avançons. Une question pressante, cependant, serait de voir quels éléments de notre tradition sont aujourd'hui figés aux dépens de certaines réalités actuellement en évolution rapide.

10 Notons que Becker est également un des premiers économistes américains à offrir une analyse économique de l'intérêt du crime (dans *Crime and Punishment: An Economic Approach*, The Journal of Political Economy, 76, pp. 169-217). Pour son analyse du capital humain, voir Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education. Chicago, University of Chicago Press. Schultz, pour sa part, a passé la majeure partie de son temps (1959 à 1989) à analyser la question du capital humain (principalement dans l'optique de l'éducation) et de l'importance d'investir dans l'« habileté entrepreneuriale ».

11 Voir E. Deleury et D. Goubau, *Les droits des personnes physiques*, supra note 2, pp. 97-139, où il est fait un riche usage de la notion d'intérêt. En fait, le lien entre la personne juridique et le corps biologique, ainsi que le rapport entre le corps-juridique et la collectivité, et les rapports entre membres d'une même famille, sont pensés en termes d'intérêts et non pas en termes de volonté ou d'utilité.

12 C'est ce que j'ai essayé d'illustrer il y a deux semaines.





# Actioning the Grâce

by Andréa Girardin (LAW I)

Nothing sounds more trite than someone encouraging you to reflect upon the richness in your life and give thanks for what you have. It falls even flatter in the shadow of the whirring red panic siren of exams (insert alarm sound here).

But just humo(u)r me for a minute.

For those Canadians not in the know, this Thursday marks the celebration of (real) Thanksgiving. For Americans, Turkey Day isn't a stale Monday, half-heartedly tacked onto an otherwise banal October weekend. American Thanksgiving sends Christmas down to the ranks of Memorial Day triviality.

There's arguably nothing more sacred for Americans than the Kennedy-esque *assemblage* of dysfunctional extended family over a game of touch football, strife, and a sanctioned 5,000 calorie gorging session. This, I deduced from AP U.S. History class in high school, is due to some kind of attempt to compensate for the hunger, hardship, and deprivation suffered by the Pilgrims in 1620. Four centuries later, America's collective psyche continues to eat its feelings.

Anyone who's spent a few minutes around me might be shocked to see me give such consideration to American sanctity. As someone who voted openly for Ralph Nader in 2008, I've essentially been branded a "hater" for all perpetuity.

And, admittedly, the American propensity for tradition, formality, and ritual isn't something I appreciated until a couple of years ago. I am, as the bona fide Americans in the Fac like to say, an American "in passport only" (circa 2006, baby). My maladjusted worldview is largely the product of having been forced to move to Memphis, Tennessee in 1997 as a wee French Canadian. Our franco-anglo transsystemic amalgama-

tion is an institutional expression of my own sense of identity.

Thanksgiving, however, is one of those rare times I like to admit to the Americanness deep inside.

This year, it seems even more pertinent to elicit the reflective quality of the tradition.

It's striking how, as we have progressed through the fall, more and more of us in the Faculty have fallen prey to rampant pessimism. If we are to believe ourselves, we all have too much (heavy) reading, too many classes, and a dire need for 16 extra hours to be tacked onto every day. There are no (single) hotties to scope out in NCDH. We're not marriageable. The unemployment rate appears to be hovering somewhere around 87%.

The world according to our course packs is a dark place, full of scheming people out to make a buck off their sister's insurance policies and caretakers who sexually exploit children, and one where the francophone population continues to be shackled to a constitutional legacy engendered by the Capitulation de Montréal (homemade pumpkin pie to anyone who guesses my profs).

In this kind of cloistered proximity, the absence of a group suicide attempt should be seen as nothing short of miraculous. A lot of us have understandably lost sight of what's important. We've forgotten that we have souls. We've forgotten that our lives *do* actually have meaning (or, at the very last, that they had some semblance of it prior to September). We've forgotten to acknowledge what makes us thankful that we wake up in the morning.

It's not actually necessary to order a new wardrobe from the LLBean catalogue for Thursday rush delivery or to run out to the store to get the makings

of a turkey feast in order to take advantage of the formal opportunity to be thankful.

In fact, the Girardin-Lefebvre clan has been celebrating bastardized "American" Thanksgiving since November 1997. On our first go-around with the holiday, my very Canadian parents failed to grasp any sanctity beyond "four day weekend" and took the opportunity for a "roadtrip" from Memphis to Gatlinburg, TN, lured by the promise of the Great Smoky Mountains (which, as it turns out, are neither great nor mountainous).

The night of Thanksgiving, after driving around in circles to find every restaurant within a 15 mile radius completely shuttered, we ended up in the parking-lot-of-last-resort to find that even the local Burger King was closed. Shaking the locked restaurant doors, my mother loudly and repeatedly cursed my father for making us move to *un pays arriéré, maudit*. Nothing was ever said about this incident again.

Henceforth, we never actually celebrated Thanksgiving in the proper way. The Burger King incident may or may not have been in play in this tacit decision to ignore it. We suspect, however, that it's largely the consequence of my mother's Québécois indoctrination, whereby a turkey is something you order at the Métro in Ste-Adèle in December, wrestle with after la Messe de Minuit, and enjoy with tourtière, fèves au lard, and 35 of your closest buzzed relatives.

Because we have no American family (and everyone else is with theirs), Thanksgiving became the quiet family day we spend together in our PJs. We order Chinese food, eat chocolate fondue, and watch old Disney movies.



There's an implicit no phone, no Internet, and no work Blackberry rule.

But as we are the token foreigners in the 5,000-person village of Lake Bluff, IL, we've been adopted by the neighbours. In recent years, we've been plied with the leftovers from 17 different family Thanksgivings. Our patio has also become the de facto Black Friday gathering point for a convivial beer, where we get to catch up with our friends' parents, our teachers, and, since leaving for university, friends from high school.

It is only now, as I prepare to spend my first bastardized "Canadian" American Thanksgiving away from Lake Bluff, that I feel more than a twinge of sadness. I won't be there to climb the ladder and staple my dad's Christmas lights to the roof. While my best friends from high school will all come by to have a drink with my parents on Friday, I'll be wish-

ing that I had a brew on the 3rd floor of the library.

The only thing I can do is stop and give thanks for the chance to *be* in the library. In this library. I'm lucky to have been given the sorts of opportunities that have allowed me to continue my education, and here, no less.

I'm thankful that I have met all sorts of wonderful people since starting law school who have come to enrich my life and make me a better person. I'm thankful that some of them constitute the "family" with whom I choose to spend my "PJ days."

I'm thankful that this Faculty provides a space for all of us to be ourselves, and only ourselves, without judgment and fear.

I'm thankful that I have my health.

I'm thankful that I have a family who loves and supports me, even if I fail my exams and am forced to drop out of law school to follow my other dreams (hello, ranching in Argentina).

And when I find myself complaining about the shortcomings of American healthcare reform, the five impending exams in my future, and the fact that the state of my bank account is such that I might be eating Kraft Dinner until Christmas, I devote a moment of thanks to Josh Schwartz, whose production of *Gossip Girl* provides the entertainment that makes me forget it all.

I encourage all of you to do the same.

## Quel bilinguisme?

par Daniel Mayer (LAW I)

Graham Fraser, le commissaire aux langues officielles du Canada, était l'invité d'honneur pendant la 20e Conférence F.R. Scott le 18 novembre 2008 dans le Moot Court de la Faculté de droit de McGill. Il a discoursé au sujet de l'évolution des droits linguistiques au Canada et du parcours qu'a fait F.R. Scott à cet égard.

At the beginning of the conference, Judge Allan Hilton highlighted the crucial characteristic of the Official Languages Commissioner: the ability and the skill to speak equally in French and in English. However, I was left with a sense of bitterness after the conference since I had only been convinced that Graham Fraser could speak English.

Graham Fraser n'a rien dit en français; il s'est prononcé uniquement et exclusivement en anglais. Il était devant la foule de gens en train d'expliquer comment F.R. Scott défendait avec force le bilinguisme au Québec et au Canada sans pouvoir exprimer quoi

que ce soit en français. Quelle contradiction!

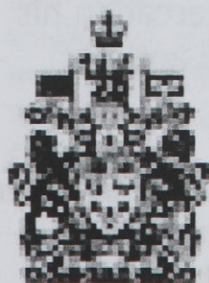
I wonder why Graham Fraser elected not to say a word of French. Is it because the F.R. Scott Conference series are usually pronounced in English? Regardless, the subject matter of the conference this year called for bilingualism and Graham Fraser should have exercised more diplomacy. After all, he is the Commissioner of Official Languages.

C'est justement ce manque de jugement qui suscite une méfiance envers d'une part les intentions du gouvernement conservateur en ce qui concerne les langues officielles et d'autre part la volonté de la Faculté de droit de promouvoir le bilinguisme. Il faut rappeler

que le gouvernement conservateur a carrément supprimé le programme d'aide juridique que les Franco-Ontariens ont utilisé dans le passé pour gagner des causes devant les tribunaux pour garantir leurs droits.

It is regrettable that bilingualism was forgotten during Graham's speech even though he was talking about the subject matter. I do want to be fair in this regard, and as such, I applaud Professor Lionel Smith for speaking in French and in English during his appreciation comments at the end of the conference.

Le bilinguisme au Canada et à la Faculté de droit de McGill... sujet à débat. Débats que nous poursuivrons sincèrement, je l'espère.



Office of the  
Commissioner of  
Official Languages

~~Commissariat  
aux langues  
officielles~~



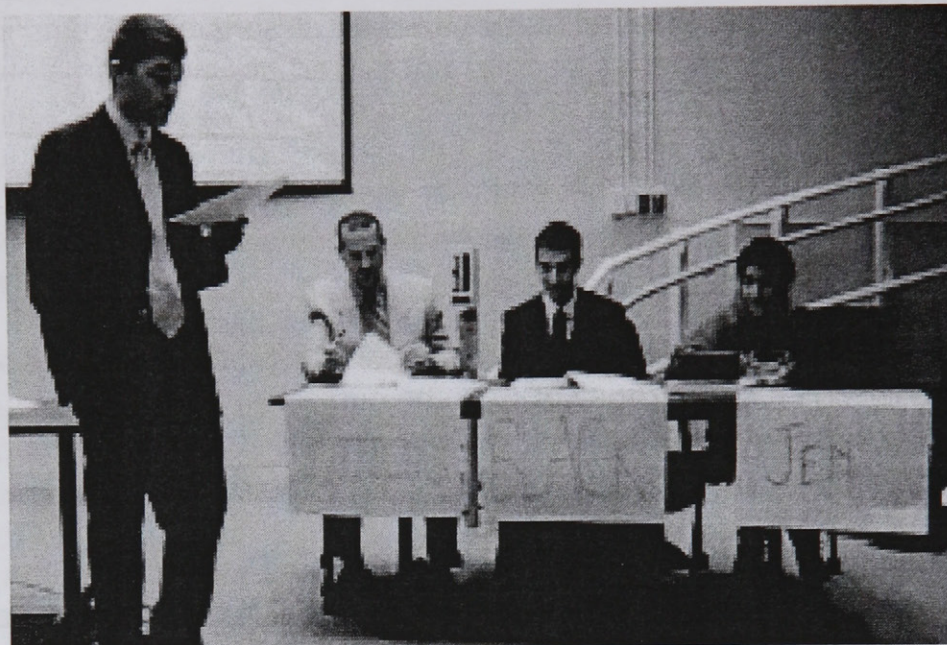
# DROIT À L'IMAGE

## Legal Meth II Presentation Review: Duty to Disclose - Jeopardy

Ben Carver plays Alex Trebek, who, in a recent turn of events, must disclose some embarrassing details from his personal life in order to provide an alibi. It would seem Trebek took a page out of David Letterman's playbook and has had sex with some of the staff members of Jeopardy! Oh noes!

Trebek discusses his options with his attorney and decides it's best to clear the air on his show, pulling in part from Letterman's monologue of several weeks ago. Once this is out of the way, we are presented with our three contestants – Atticus Finch (Jeremy Lewsaw), Conrad Black (Dan King), and an un-named McGill law student (Safia Lakhani).

Hilarity ensues from King's portrayal of the loquacious Black and Lewsaw's performance of the always virtuous Finch. The McGill student leaves the competition



Charlie Feldman (LAW II)

placed by Sean Connery (Corey Wolman), who, in true SNL-Jeopardy parody style, serves to mock Trebek. The whole culminates in a rousing Final Jeopardy question involving the definition of trans-systemia. Atticus guesses correctly, wagering 'my own virtue'. Black's guess is 'I am rich' – bolstered by his wager of 'I don't care'. Connery appears to guess 'I heart Trebek' only for us to discover upon the reveal of his wager that his tablet reads 'I hear Trebek's creepy sex book', ending the game.

**Best portrayals: Dan King, Jeremy Lewsaw. Best slap-chopper: Joseph Flowers. Best line? There were many – The Quid's favourite: Alex: Okay, we're back... but I don't remember who is in control of the board... Conrad Black: Well, it's been a while since I was in control of any board...**

## Legal Meth II Presentation Review: Access to Justice

The expectations for the Access to Justice presentation (the last for Legal Meth II) were high – and it delivered! Tanya De Mello introduced us to the topic of access to

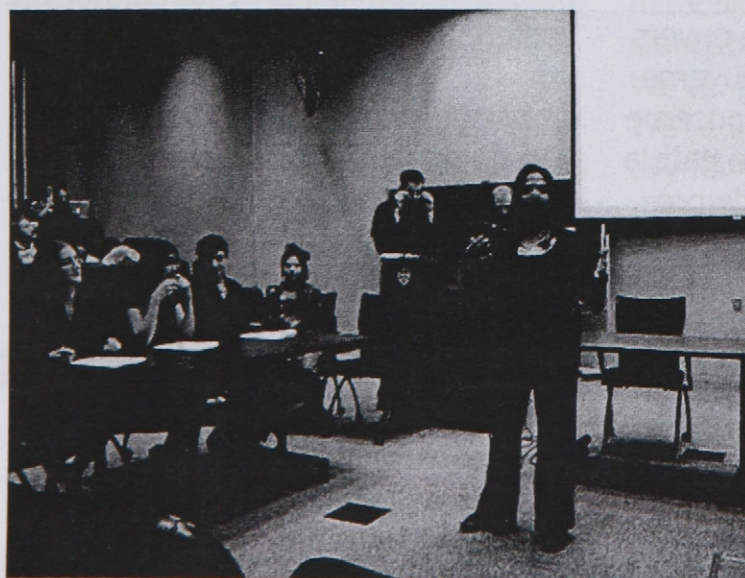
justice, and lead us into a skit starting with the intro to CBC's The National.

Dina Awad and Yourri Tessier-Stall are reporters – for CBC and RDI respectively – and are presenting us with the trial of Catherine Coursol, a squeegee from Montreal who, when performing her work in Toronto, had an encounter with a baseball player whose windshield she attempted to scrub. In the ensuing altercation his car is damaged and her arm is broken.

Ms. Coursol cannot afford a lawyer, but secures pro bono representation (Mal-

colm Aboud). He's late to Court ("Sorry I'm late – I had a meeting with a paying client"). Between Court scenes, we are taken to the mob outside carrying signs outside the Courthouse and telling the reporters their thoughts on certain access to justice issues such as costs and self-representation.

Un élément intéressant de la présentation a été la représentation de la barrière linguistique. Mme Coursol ne pourrait pas obtenir un avocat qui parlait sa langue. En plus, il semblerait qu'il y avait une barrière linguistique aussi pour son avocat, qui était incapable de comprendre le latin juridique utilisé par les avocats adverses. Tout cela pose la ques-





# LEGAL METH II PRESENTATION AWARDS

**You've seen the presentations, read the reviews, maybe even seen a clip or two on Facebook or Youtube...now, it's time to vote!!**

**Objectif:** Le but de ces prix est de faire reconnaître le talent de notre classe et féliciter nos collègues pour leurs efforts.

**Rules:** Tear out this sheet from the Quid. Fill it out (as many or as few categories as you want)! Return it by this Friday to Charlie, Courtney, Chanel, or the Quid office. Probably the easiest way to do this is to bring your form to Coffeehouse on Thursday (Charlie will be there 5:30 onward). Or, you can type up your responses and e-mail them / Facebook them.

For name responses you can indicate a person's name or their character's name. For the others, just give us enough information to figure out what you're talking about...

## Specific Categories (Explained):

**Best Actor / Best Actress:** Name the male and female student (in a leading role) who you felt displayed the most acting skill in creating and inhabiting a character. (NON-EXHAUSTIVE LIST OF EXAMPLES: Joel Lightbound as 'Tommy Sunshine'; Krista Zeman as 'Candice Shore'; Nora Ahmed as 'CBA Representative'; Catherine Coursol as 'Squeegee').

**Best Portrayal (Male/Female):** Name the male and female student (in a leading role) who you felt did the best portrayal of a character. (NON-EXHAUSTIVE LIST OF EXAMPLES: Carrie Finlay as 'Nicole Ritchie'; Jer Lewsaw as 'Atticus Finch'; Dan King as 'Conrad Black'; Mari Maimets as 'Aristotle'; Michael Bookman as 'Tucker Carlson'; Annamaria Enenajor as Bentham, J.)

**\*\*Having two categories reflects a discussion with several students over previous reviews in the Quid and whether it is fair to recognize as 'acting' a portrayal that is either not far from one's normal state or more of an**

impression than acting. So, basically, you get to recognize four people instead of two – and don't worry about putting someone in a wrong category (I will sort that later). Just write down your favourites. And yes, you can put 'Charlie Feldman as Paris Hilton' in either the male or the female category for portrayal :-P

**Best Supporting Actor/Actress:** Indiquez les meilleures représentations faites par deux étudiants (un homme et une femme) qui ne jouent pas un rôle de premier plan. Il peut s'agir d'une création originale ou une impression de quelqu'un. ( Liste non exhaustive d'exemples : Corey Omer « Nigel Bloomington »; Steven Jegou « juge pacté »; Suzanne Amiel « ex-femme »).

**Best Presenter (Male/Female) :** Indiquez deux étudiants (un homme et une femme) dont leur tache était de présenter les informations lors des présentations. (Liste non exhaustive d'exemples: Tanya De Mello – Access to Justice; Andrew Hodhod – Intimate Relations; Tiffany Boisvert – Regulation of the Legal Profession).

**Best Costume:** Who had the best costume (most suited to the character)? Some examples: Annamaria Enenajor as 'Bentham, J'; Mari Maimets as 'Aristotle'; Catherine Coursol as 'Squeegee'; Suzanne Amiel as 'Skanky ex-wife'; Carrie Finlay as 'Nicole Ritchie').

**Best Video:** Pick your favourite video! (Some examples: 'The Devil's Advocates' – Ryan Gallant et al.; 'Héti Ethique' – Ryan Gallant et al.; 'The Office' – Jonny Asselstine, Fransisco Torres, Kerwin Myler; 'Nicholas Melling at Home' – Randall Blom et al).

**Best Video Editor:** Qui a eu les meilleures vidéos (de perspective de montage)? (Some examples: Ryan Gallant, Oscar Miklos & Ehssan Emran).

## Material Categories:

**Best PowerPoint** (shown in class);  
**Best WebCT material** (only if you actually looked at it!)

## Overall Categories:

**Most informative:** Which presentation conveyed the most information? Or, put another way, from which presentation did you most gain?

**Most entertaining:** Which presentation did you enjoy the most for its entertainment value?

**Best overall:** Select the presentation, which, overall, you feel was the best, taking into account both entertainment and informational value.

**Un-sung Hero:** Y a-t-il quelqu'un de votre groupe qui, selon vous est allé au-delà? Il peut y avoir plusieurs gagnants pour cela.

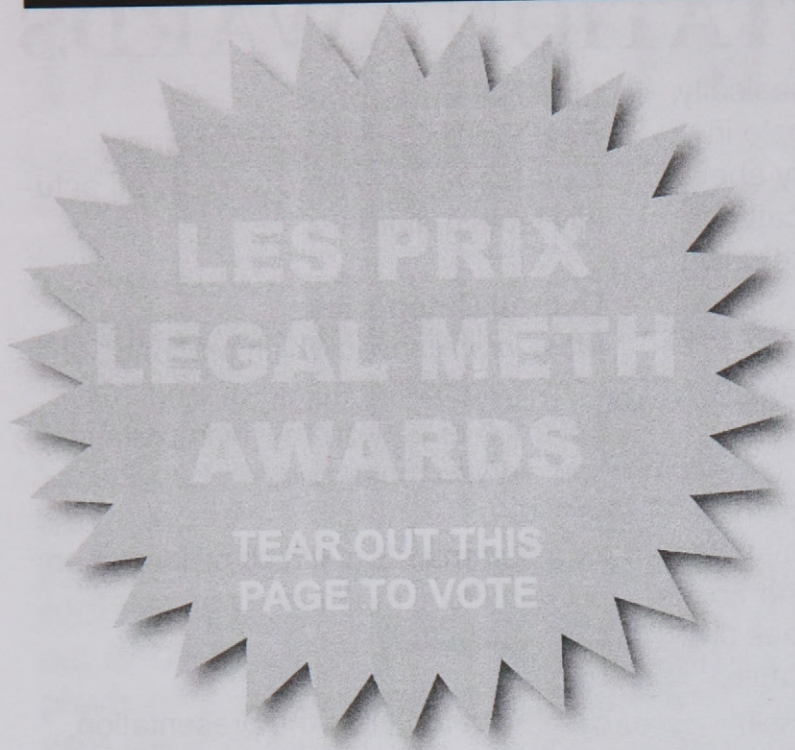
**Best TL :** Yes, this one's a popularity contest.

**Biggest laugh:** What one line or one scene made you laugh the most? (Some examples: The E-mail from Margaret Barratta in 'Intimate Relations'; The phone sex conversation from the first presentation).

**Other write-in:** Make a category or two and write in who won! Eg: Best original song; best game show host; best fake accent; best typo on a PowerPoint.... Really this is all up to you! Be creative!







**To participate:** Tear out this sheet from the Quid. Fill it out (as many or as few categories as you'd like)! Return it by this Friday to Charlie, Courtney, Chanel, or the Quid office. Probably the easiest way to do this is to bring your form to Coffeehouse on Thursday (Charlie will be there 5:30 onward). Or, you can type up your responses and e-mail them / Facebook them.

For name responses you can indicate a person's name or the character's name. For other answers, just give us enough information to figure out what you're talking about...

**For full category descriptions, see other side.**  
**Bravo tout le monde et bonne chance!!!**

- Best Actress: \_\_\_\_\_
- Best Actor: \_\_\_\_\_
- Best Portrayal (Male): \_\_\_\_\_
- Best Portrayal (Female): \_\_\_\_\_
- Best Supporting Actress: \_\_\_\_\_
- Best Supporting Actor: \_\_\_\_\_
- Best Presenter (Male): \_\_\_\_\_
- Best Presenter (Female): \_\_\_\_\_
- Best Costume: \_\_\_\_\_
- Best Video: \_\_\_\_\_
- Best Editor: \_\_\_\_\_
- Best Use of Technology: \_\_\_\_\_
- Best Powerpoint (shown in class): \_\_\_\_\_
- Best WebCT material: \_\_\_\_\_
- Most informative: \_\_\_\_\_
- Most entertaining: \_\_\_\_\_
- Best overall: \_\_\_\_\_
- Un-sung hero (from your group): \_\_\_\_\_
- Best TL: \_\_\_\_\_
- Biggest laugh: \_\_\_\_\_
- Other write-in(s)? \_\_\_\_\_



# DROIT À L'IMAGE

tion - si l'avocat ne peut pas comprendre, comment va comprendre M or Mme tout le monde?

When baseball player (Jon Mechanic) takes the stand, he is guided through the questions by Counsel, even though on cross-examination it is revealed he doesn't actually know beyond what his lawyers have told him. The presentation concludes with Ms. De Mello

presenting some questions for reflection.

**Best costume: Catherine Cour-sol as 'Squeegee'** **Best news reporter: Dina Awad & Youri Tessier-Stall (tie).** **Best acting: Malcolm Aboud.**

*Note: this presentation was a tribute to the life and work of Dugald Christie.*

Charlie Feldman (LAW II)



## ...Disons...

### (Overheard at the Faculty)

So, these submissions don't have proper attributions (Profs get named, students are indicated by year). We here at The Quid have low standards, so, here they are regardless:

"If you don't get your university degree quickly enough, you can sue the bastards for it!" - A Prof.

Person 1: "I want a baby, but I don't have a man in my life."

Person 2: "You can have a project parental as a single woman, you know. Artificial insemination!"

Person 1: "But I want a real insemination!"

*Don't forget to send stuff in – quid.charlie@gmail.com*

Dr. Ted Baker (at the exam info session): If the worries won't leave the bed, you get out of the bed and go to your worry chair.

Prof. Jukier: So, if we don't want the jury to watch TV, what do we do with them?

Student: We quarantine them!

Prof. Jukier: Gosh - you guys are in such H1N1 mode!!

Prof. Jukier : Did you ever Google yourself? It is the scariest thing in the world! Everything is there! Everything! I'm not even on Facebook – if you're on Facebook – you're dead!!

Prof. Fox-Decent: The next line is the most beautiful in jurisprudence. It al-

most makes me cry every time. Ready? "The Charter belongs to the people." God that's beautiful. (Cooper v. Canada (Human Rights Commission), [1996] 3 S.C.R. 854 at para. 70).

4L: I realized I missed my chance to haze the 1Ls... I was going to tell them there was a pool on the roof and hand out pool passes for \$5 at the start of the year. It was such a brilliant plan. FML.

3L: All I want for Christmas is a B+... same gift I ask for every year.

3L: I don't know how I feel about Lady Gaga anymore - it's kind of like law school – I was loving it at first and now it's just a huge WTF fest.

2L: So, wait...space AND time bend for legal meth. Let's move the Moot Court to the Shatner building and we're set!!

2L: Tick -tock-tick-tock – there goes my biological clock!

1L: I swear if I'm not caught up on readings by exams I'm hitting the red button and going home. What have I learned in law school so far? How to exploit the rules for my benefit!

1L: I like you and all, but this better get consensual real fast

## T-M-I

This week at Community Coffeehouse, the Quid ascertained that Dean Lametti's iPod was providing the soundtrack. So, when 'I'm too Sexy'

played, the Quid was intrigued and approached Prof. Lametti about his musical tastes. Lametti told the Quid "I was in England when Right Said Fred came out". Lametti noted his penchant for bands from Oxford, such as Radiohead and up-and-comers The Foals. The Quid then queried what Dean Lametti was 'too sexy' for. His response? "The law school".

Later, The Quid noticed Lametti was gone but 'Sex on Fire' (Kings of Leon) was playing. The Quid isn't sure if it was still his iPod providing music at that point. In fact, The Quid really doesn't want to speculate. We don't want to know.

## QUID PRO QUO

This week a Prof specifically requested not to be quoted in the Quid shortly after speaking into existence a most quotable quote, that, really, in a word, was phantasmagoric. So, umm, instead of the BEST QUOTE OF THE YEAR, the Quid is publishing this picture of Prof. Jukier. Again, the Quid puts the Quid in Quid Pro Quo!





# Catching Up With Third Years on Exchange

by Héloïse Apestéguy-Reux (LAW III)

Third year is a tough year when it comes to class cohesion – many are working off campus on clerkships or clinic placements, and some are scattered across the world on exchange. One thing I thought I'd try to do as co-class pres this year is have those on exchange share a few thoughts and experiences with us, so that we can feel that they're not so far away after all.

This week, I caught up with Elsa Kelly Rhéaume, who is in Mexico City, and Colin Burn, who is in Paris.

First, here are Elsa's answers:

Héloïse – What's been one of your favourite experiences up until now on exchange?

Elsa - I love living in Mexico City! I thought Montreal was happening, but the DF is something else! So many cultural events to attend, museums to visit, clubs to party at! It's impossible to see it all in 5 months, but us extranjeros have never been bored here! Of course, going off to the beach every weekend is nice too! :)

Héloïse - What has surprised you the most since you've been there?

Elsa - Before I left for Mexico City, everyone in Montreal was telling me how dangerous it was and to be extremely careful. I am just relieved to see that, as I had expected, you can live a normal life here without fearing being kidnapped at every minute! Of course the standard is not the same as it is in Montreal, but I have felt very safe here.

Héloïse - What are your favourite things about the city you are living in?

Elsa - The people I have met at school, in coffee shops or through friends here are incredible. Mexicans are extremely hospitable people and always eager to invite us exchange students to their

parties and on their trips!

Oh and the first thing Mexicans say when they hear you're Canadian: "Aaaah, the country we now need a Visa to enter!..."

Here are Colin's answers:

Héloïse - What's been one of your favourite experiences up until now on exchange?

Colin - There are many insignificant, daily experiences that make living in Paris really enjoyable but the most amazing experience I've had since being here has to be the first two weeks after arriving. A day or two after landing in Paris, I had the chance to travel to Barcelona and Nice with my girlfriend just before Labour Day. Having a home-base in Paris meant that travel was cheap and so we were able to really customize (or improvise) our trip. It was amazing, and since I doubt I'll end up based in Paris ever again, I don't think a trip like that will be easily repeated.

Héloïse - What has surprised you the most since you've been there?

Colin - The Euro! Everyone talks about how strong the Canadian dollar is. Let me tell you, folks: It ain't that strong if you look to Europe.

On a more serious note, I would say the Sciences Po schedule has been pretty surprising. Because we're taught by practitioners, classes either start at 8:00 AM or 7:30 PM. At certain points in the week you really start to appreciate McGill's standard 2:30 PM class times.

The other thing that surprises me is the degree to which France, and the EU as a whole, is evolving and changing at such a fast pace. I know that you probably weren't trying to ask about school with this question, but the newness of the EU is everywhere. At Sciences Po, we're learning about EU directives or

new regulatory schemes that have been in place for only a few months. I never really expected to be in France and be in a world where everything is new.

Héloïse - How are the people you've met? That is, what are they like – students, roommates, new friends etc.?

Colin - This isn't an easy one to answer since Sciences Po is pretty diverse and international and....well, not a very social environment. I've been able to get to know the other McGill students at Sciences Po and in Paris to a much greater degree than I would have had I stayed in Montreal, which has been a nice bonus of the exchange. That said, I know that most of us at Sciences Po have found it kind of difficult to get to know the French students. To be fair to them, there isn't a central campus like the McGill Faculty and with the class schedules, everyone scatters home as soon as classes end. I know that class representatives are doing their best to change this with more school pub nights, so maybe in future years it will be a little different.

Héloïse - What's your favourite or least favourite class / prof?

Colin - I've actually come to really enjoy just about all of my profs. They're all experts in their fields and so the subject matter we learn is completely current. There is one prof who stands out. He is such a jerk... it's hilarious. While students are presenting (a major aspect of life at Sciences Po no matter what classes you take), he spends the entire time on his blackberry. I assume that he's paying attention because he interrupts whenever he feels it necessary. But it gets better... this morning after two students finished their presentation, he looked up from his blackberry...stared at them for a few moments...and asked (while laughing) if they actually expected him to believe a word they had just said? Don't you wish that kind of response was more



common at McGill? I have to reiterate, he's an outlier. 5 good profs out of six isn't bad.

Héloïse - What are your favourite things about Paris? Your least favourite?

Colin - Living in Paris definitely lives up to its billing. The city is beautiful. The culture and vibe of the city is unique. There are a ton of events that make it an amazing environment to live in. And Paris is most definitely a global capital in a way that Montreal or Toronto are not. There are so many more concerts, sporting events, political summits, etc. that happen here on a daily basis. There's no one thing that stands out when I think of my time here in Paris. Make sure to check out the Quid next week for more Q&A with our third years on exchange!





# Compte-Rendu de la Semaine de la Danse - 2-5 novembre 2009

by Joannie Jacob (LAW II)

Comité du bien-être étudiant (Student Well-Being Committee)

Comme plusieurs d'entre vous sont au courant, durant la première semaine de novembre a eu lieu la première activité du Comité du bien-être étudiant; la semaine de la danse. Dans cet article, je souhaite d'abord faire un retour sur l'évènement – sa raison d'être et son déroulement – et ensuite compiler les leçons que j'ai tirées suite à cette expérience.

## Quoi?

En guise de rappel, la semaine de la danse est un événement qui a eu lieu pour la première fois cette année et durant lequel des étudiants de McGill ont offert gratuitement des cours de danse aux étudiants de la faculté de droit. Au total, 6 cours ont été donnés du lundi au jeudi, durant l'heure du midi : capoeira, Scottish Highland dancing, salsa, swing dancing, african dancing et belly dancing.

## Pourquoi?

Mais pourquoi une semaine de la danse?

Évidemment, il est certain que le fait d'être moi-même une passionnée de la danse a eu une influence sur ma décision d'organiser une telle activité. La danse est un sport (oui un sport) accessible, diversifié et qui permet de socialiser. De plus, une citation de Hans Bros reflète bien une autre raison, plus profonde, pour laquelle j'aime la danse : "While I dance I cannot judge, I cannot hate, I cannot separate myself from life. I can only be joyful and whole. That is why I dance."

Mais la raison première va beaucoup plus loin que mes préférences personnelles et est directement liée au mandat du Comité. Je vous le rappelle, le comité a pour mandat cette année :

*To encourage the law students' com-*

*munity to develop a better balance in their life. To show that making small (and easy) changes to their daily routine in order to have a healthier and more active life will benefit them in the long run, making them more productive and motivated. Le comité veut aussi informer les étudiants des différents organismes et clubs sur le campus qui organisent des activités et qui offrent des services qui peuvent les aider à atteindre leurs objectifs vers une vie plus équilibrée et plus saine.*

Donc en somme, il s'agit d'encourager et d'aider les étudiants de droit à mener une vie plus équilibrée et active. La danse est, je le crois, une bonne façon de permettre aux étudiants de prendre une pause, de se débarrasser de leur stress et de découvrir quelque chose de nouveau. Étant donné qu'il s'agissait de cours d'introduction, le niveau était bas et donc cette activité n'aurait techniquement pas du être intimidante. De plus, le fait que ces classes étaient gratuites et se trouvaient à la faculté avait pour but de les rendre les plus accessibles possible. Enfin, comme dernier incitatif, des prix de participation avaient été annoncés. Étant donné le peu de gens qui ont participé, ces prix n'ont pas encore été donnés et seront gardés pour un autre événement.

## Turnout

So far, so good. The "raison-d'être" of the activity was, I believe a good one. Moreover, from the moment I started discussing the idea, back in September, I had an overwhelmingly enthusiastic response from the students in the faculty. Many people kept telling me that it was a great idea and that they would definitely come. Many people also said they would attend on the Facebook event (61 confirmed, 44 maybe). Therefore, I was taken by surprise when during the said week, very few

people showed up.

Indeed, we had:

- 4 people for the capoeira class (including myself)
- 2 people for the Scottish Dancing class (including myself)
- Practically no one showing to the salsa dance class
- 8 people for the swing dancing class
- 6 people for the African dancing class
- No one showing to the belly dancing class

That's a grand total of 20 people participating - actually less since some people participated to more than one event - over the whole 4 days. By any measure, I believe that we can say that it is an incredibly low turnout.

In the next paragraph, I will explore possible reasons for such a low turnout. Possible reasons for low turnout

## Timing

Most of the feedback I got from people who did not come told me it was not a good timing; either they had a class at the same time or had too much work to do. However, I did hold the dancing classes during the universal breaks on both Monday and Wednesday. Furthermore many people had advised me against having the event later in the afternoon or at night. A good suggestion was to have classes only during the universal break on Wednesday, either every week for a month, or once every month. I think it is a very good suggestion that should be followed if the event happens again.

The other component to timing is dates. Some said I should have held the event earlier. Perhaps it would have helped. The reason for holding it in November was that the event was meant in part as a stress-relief activity; and usually,



students are not too stressed out yet in September or beginning of October. The other reason was that an activity like that takes time to organize, especially when you are the only one in charge. Maybe a solution would be to have it early during the second semester?

#### *Lack of interest*

Even if for some people timing was really their reason, other activities happened that week, which all had a significantly better turnout. Examples are the NMUM coffeehouse and the "I got the Blues" teahouse (which were great). So it brings the question; is dance week really an activity that a significant proportion of the law student population would actually be interested in?

Perhaps not. Or maybe even if it seemed interesting to some people at first, when competing against other events and with schoolwork, it did not become so appealing. Moreover, maybe other events addressed the needs and interests of the student population in a better way?

If there is indeed a lack of interest, than there is no point to this activity. But at this stage, I would not be too quick to conclude that it is the case. A suggestion made was to make people sign up for the said class, so they feel a greater sense of commitment and actually mark down the dates of the event.

#### *Advertising*

I advertised the event quite a bit in advance through: messages on Notice board, a Facebook event, posters, an article in the Quid, a few announcements in class, the black boards down-

stairs. I don't have the feeling that much more could have been done on that point; maybe only a few more class presentations.

#### *Location*

Only one class was in the Atrium and the other ones were on the third floor. I heard no complaint about the rooms. At first I thought that having a class in the Atrium, since it is more visible, would draw more people to come, but it did not seem to be the case.

#### *Hygiene concerns*

One person mentioned that some people might have not come given that they had forgotten to bring comfortable clothes and shoes that day, or that they could not shower at the faculty after the activity.

### **Réflexion sur la participation à la vie sociale à la faculté et l'utilité du Comité**

Pour être franche, je ne suis toujours pas arrivée à une conclusion claire et tranchée. Suivant mes discussions avec plusieurs personnes, je crois qu'il vaudrait la peine de tenter l'expérience encore une fois, mais personnellement, je doute avoir la volonté de planifier cette activité une deuxième fois la session prochaine.

Cependant, cette expérience m'a amenée à me questionner sur deux thèmes plus grands :

1-l'utilité du Comité du bien-être étudiant : Selon mes discussions avec plusieurs personnes à la faculté, avant cette année pratiquement personne n'était au courant que ce comité de l'AED existait. Il n'a donc pas été très

actif par le passé. La raison est peut-être que la « promotion du bien-être étudiant » est un mandat bien vague dont plusieurs membres de l'exécutif, clubs et comités s'occupent déjà. Que ce soit la VP-Athlétique qui organise des midis de jogging et des cours de yoga, le Community Law club qui organise les nombreux teahouse et le Journez, ou le HRWG's Gender Portfolio qui organise un women fitness initiative, les exemples ne manquent pas! So, is there too much overlap? Even though I think the mandate of the Student Well-Being is an important one, perhaps it would be more beneficial to combine and concentrate efforts and resources.

2- La participation à la vie sociale de la faculté : Even though I do not mean to blame anyone, it seems like the participation rate to activities at the faculty is lower this year, and in particular for the first years. This ties in part to an issue I spoke about in a previous issue of the Quid: integration. Perhaps something more could be done to help students better integrate to the faculty? Or maybe the issue is something different. Maybe the problem is that there are too many activities. Although I encourage initiative amongst students and I think that students should be given the chance to organize new projects they believe in, perhaps the number of events is too high considering the limited resources available, and the limited time of law students.

Beaucoup reste à dire et j'invite mes collègues à réfléchir sur les questions ci-dessus et peut-être même d'écrire un article à ce sujet!

#### **Special thanks to:**

All the volunteer teachers: Malcolm Dort, Sarah Berger Richardson, Oscar Miklos, Michael Shortt, Tiffany Boisvert, Matthew German and Daphna Harel;

To everyone who came to the classes and who encouraged me during the week;

All the executive of the LSA who helped advertising and organising the event, in particular Alex Shee;

The Arts Committee for their support; And Francisco Torres for making the awesome poster!

#### **Next semester...**

Nothing is set in stone just yet, but here are some of the projects in the making for next semester:

- Nutrition week: in collaboration with VP-activities and VP-athletic, a week of cooking classes, workshops, and possibly the release of a cookbook for students.
- Un cours de danse québécoise traditionnelle durant la semaine québécoise
- Distribution of "goody" bags during final examination period
- A week of yoga and meditation related activities for stress relief

If you have any comments about them, if you would like to help, or if you have any other suggestion for a future event, please come see me in person or write me at [joannie.jacob@mail.mcgill.ca](mailto:joannie.jacob@mail.mcgill.ca)

\* Also if you want to be updated on the events of the committee, and any other related events on campus, join the **Facebook group**: <http://www.facebook.com/profile.php?id=702705238#/group.php?gid=296468055001&ref=ts>



# Let's Re-Prioritise Our Infrastructure Investment

by Brett Hodgins (LAW II)

The Faculty of Law has seen continuous renovations in the past few years. It's refreshing to know that we can have significant infrastructure investment without Faculty of Management-level tuition (yet). We're certainly squeezing all the beauty we can out of the giant rectangular cement tumour on Old Chancellor Day Hall that is New Chancellor Day Hall. So I hope I won't sound ungrateful by suggesting that we should re-evaluate our infrastructure priorities, but I think there's a glaring deficiency in our faculty that needs to be addressed.

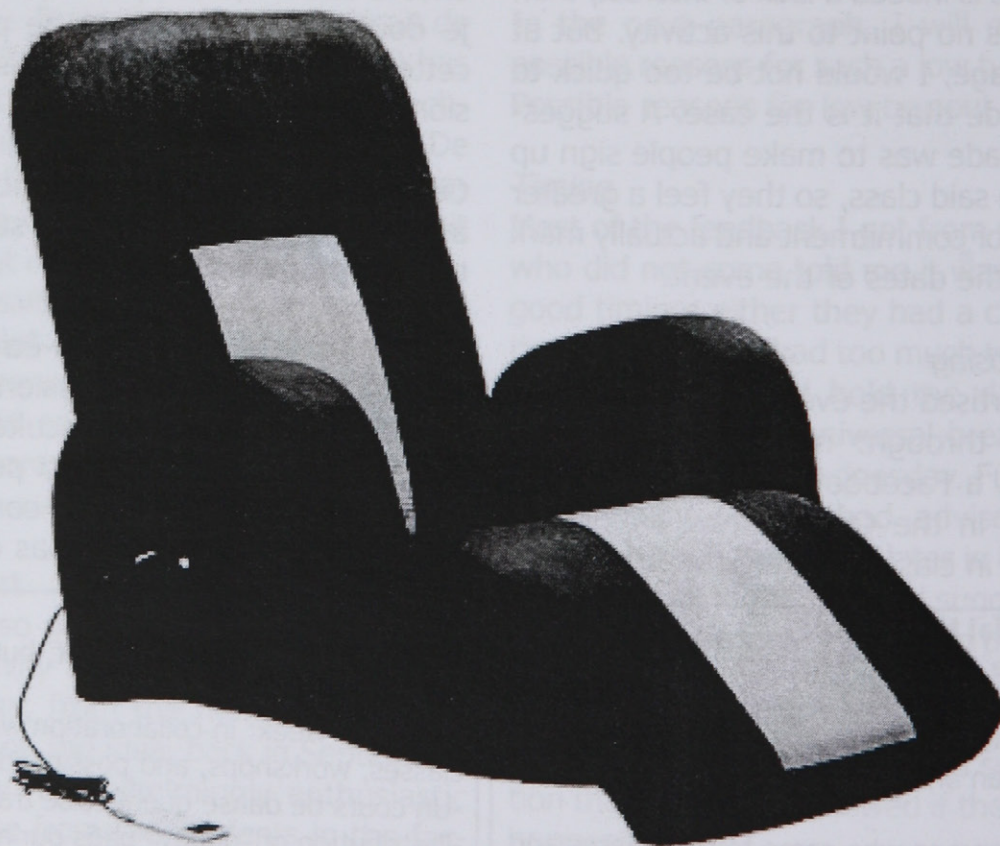
No, I'm not talking about the lack of desk outlets on the third floor. I actually admire our Faculty's bold and unique belief that laptops in the classroom are a passing fad, while electric blinds are the way of the future. Nor am I talking about that one wobbly chair on the right hand side near the back of room 101 that I always end up sitting in. I mean I could easily just change seats, but I never do. I don't even know what my problem is there. I'm talking of course, about how the chairs in the library are distinctly ill-suited for sleeping in.

Don't be fooled by all the sleeping students you'll see on any visit to good old Nahum Gelber, or as it's affectionately known, "the 'Hum" (note on pronunciation: *hūm*). They're sleeping through sheer grit and determination, and thanks to the sleep-unfriendliness of the chairs, they'll be stiff and sore upon waking. And those are the hunched-over desk-sleepers. Personally, I prefer reclining sleep; too many times has forward-sleeping on a hard unforgiving coursepack left me with partial facial paralysis and unsightly creases on my cheek and forehead. Yet if desk-sleeping is uncomfortable in the 'Hum's chairs, reclining sleep is nearly impossible

If I can't sleep in the library, where am I supposed to sleep between classes – at home in bed? That's where I study.

The atrium has comfortable chairs, but it's noisier. It's unfortunate because I feel we're letting down a great historical tradition which has gone from the ancient Library of Alexandria, where the Ptolemaic Pharaohs would sleep between classes, to Thomas Jefferson's famous four-poster chair in the US Library of Congress. We also risk falling behind other law schools, who certainly haven't neglected this aspect of legal education. I assume that Dean Mayo Moran of U of T's Faculty of Law has said that having good sleeping chairs in the library is their "number one priority".

Our faculty has made impressive recent investments in infrastructure. However, as long as its chairs remain uncomfortable for sleeping, our library may never truly become the "'Hum sweet 'Hum" its motto claims it to be. In any event, our current infrastructure priorities risk making our faculty strategy appear inconsistent: our readings are conducive to sleep, our electric blinds-enclosed classrooms are conducive to sleep – how can our library chairs not be?





# It Ain't Easy Being Sleazy

by Andrew Hodhod (LAW II)

After letting my beard grow for over three weeks, I finally shaved last night. Not completely though. I kept my moustache and a slight pinch under my lower lip. It's not pretty. In fact, it's downright hideous. Some people look good with a moustache. I do not.

Thankfully, I am not alone. Over the past few weeks, you may have noticed an alarming increase in the number of moustachioed men here at the faculty. This growth (hehe) is not coincidental. It's purposeful. It's Movember.

## Movember

The concept is simple: during the month of November, men grow moustaches to raise money and awareness for men's health issues, hence the portmanteau 'Movember'. Despite conflicting accounts of the beginnings of Movember (Melbourne or Adelaide? 1999, 2003, 2004?), the event originated in Australia and has since spread

to several countries around the world, including Canada. In 2008, the Canadian campaign raised \$2.4 million, making it the largest charity event for men.<sup>1</sup> The money raised in Canada goes directly to Prostate Cancer Canada.

## Prostate Cancer

Approximately 1 in 6 men will be diagnosed with prostate cancer. It is the most common cancer to afflict Canadian men. Nearly 4,400 of them will die of the disease this year.<sup>2</sup> Men are often reluctant to think or talk about prostate cancer for a number of reasons (fear, embarrassment, hubris, and so on). Therefore, raising awareness is incredibly important. Therein lies the power of the moustache.

## The McGill Law Mo Bros

As alluded to earlier, a bunch of us here at the faculty decided to create our own 'stache growing team. We all began the

month clean shaven. Now most of us look gross.

Also alluded to earlier is the fundraising aspect of Movember. Our team is registered on the official Movember Canada website (<http://ca.movember.com/>). To check out the profile of each group member / donate, simply go to the website and search for 'McGill Law' (NOT 'McGill Law'). All you need is a credit card. After donating, you'll be emailed an official tax receipt.

Movember is winding down quickly. Please give what you can, if you can. "Otherwise," to quote a fellow Mo Bro, "the misery of growing these monstrosities is all for nought."

<sup>1</sup> <http://ca.movember.com/about/>

<sup>2</sup> Ibid.



**Dude, you're taking Movember way too seriously.  
Also, your spouse must hate you.**



# A Quid Writer's Lamentations

by Chase Barlét (LAW I)



I did not intend to write; not this week. *Family Guy* is on. Dirty laundry has made another brazen and undeniably successful advance in its siege to take over my apartment. My food supply is lacking and I really want an orange. Yet, here I am; writing. Why? The *Quid* has felt dangerously thin in recent weeks, and I for one am concerned about its well-being. I can be sarcastic, funny, provocative, and altogether boring; writing eulogies, however, is not my forte.

Today, I'll skip the lead-in and simply state the matter-at-hand: the *Quid* needs more writers. Fine; that's fair enough. We are indeed quite grateful for the six weekly writers in addition to submissions from you, our loyal readers. Here's the real winner, though - the *pièce de résistance* if you will: 24 editors. Yes, that's right; 24 editors. Six times four: six weekly writers; 24 editors. Now, shall we consider this objectively? For every article I write, I might as well have four people standing behind me as my own personal editing entourage. I hardly am convinced that my writing is so interesting or official that I should require four editors to proofread it. If that were the case, I should have heard from a publisher by now, or at least moved on to compulsive blogging. Before I go any further, let me just say: I do appreciate these people; all 24 of them.

Now, personal giggles aside, let us explore why this fascinating editor-to-writer ratio might balance as it does. I do not intend for this list to be exhaustive, but I am clearly, as you shall see shortly, giving it a fair shot.

First, perhaps it is because editorial work is just so gosh-darn enjoyable. Or perhaps organized schooling has left many of us with the impression that writing can only be as creative and original as bran cereal with fat-free milk. Well let me tell you something: writing is fun. I am having such a blast right now. You don't even know. In fact, you couldn't handle it. Life gets brighter. Concentration is honed. Anxiety disappears. Thrill. Interest piqued? Well we're just getting started, baby; we can write all night long. Writing is F.U.N. (See me privately to share that acronym with you.)

Second, perhaps one might know well that writing is F.U.N., but believes he or she has nothing to say or cannot articulate it properly. It is with polite dissent that I voice my opinion to such a person as courteously as I deem fit: that is bull-plop. I hear you people speak in class. I eavesdrop on your gossip (please stop talking about me when I am sitting conspicuously behind you - and to answer the most recent questions I heard: yes, yes, and we'll see). I see the notes on your laptops. I even read your Facebook profiles for Christ's sake. You can write, and if your all-caps Facebook status can turn my interest's crank, just imagine what you could accomplish on a whole page with a captive basement audience each Tuesday morning in the NCDH bunker. Wild.

Third, I suspect assertively that it may have nothing to do with what is fun or who has what to say. Rather, the term "editor" looks presumably much nicer on a resume than does the term "writer." I hate to have to bring this up, but every time I open the *Quid*, I con-

sider this. Twenty-four. Versus six. Really? Now, I realize that writing an article each week is not many people's cup of tea. There are many talented and genuinely needed editors who can tighten and strengthen an article far better than I could. These people should no doubt serve proudly as *Quid* editors. However, in the six issues of the *Quid* published to date, and I have written for each, I have found errors in my own articles in no fewer than half, including errors that did not surface until *after* the editorial process on at least two occasions. It is this reality that has caused me to at last wonder what exactly is happening. As a writer, I seek to submit a piece that is clear with as few errors as possible. Although I may not agree with every change, I reasonably expect the final draft to at least be free of grammatical errors and typos by the time it hits the printer. When it is not, and has not been, I will openly admit my frustration. I'm about ready to start hiding typos just to see. Though the final product may not always reflect my goals fully, for better or worse, I put in quality time each week, and I expect the same from my editor, especially when he or she is only called upon to edit once every few weeks. If not, I motion to "right size" the editorial board. After all, there are 24.

Though I do not claim that any individual editor is failing to take his or her job seriously, it is fair here to say that in general, it is important to take one's commitments seriously. For that matter, it is important to make them seriously. Tremendous pressure builds during law school. You've all seen the signs around the faculty. No fewer than 44% of you are medically depressed. I suspect the real number is quite higher. The game is on and the clock is ticking. Building up the right qualifications list is crucial; after all, a crisp white CV will be more impressive when you have something to put on it. But while those credentials might get us through the door, it will be our reputations and performance that



determine whether or not another door hits us on our way out. Twenty-seven clubs we attended once or 14 other commitments we barely acknowledged will do little for our ability to truly engage and contribute meaningfully to this law school world that encompasses us. I suspect that future employers might too be well aware of this.

That's it. It speaks for itself. No personal

accusations, but some relevant, legitimate, and reflective thoughts to ponder over your next bowl of oatmeal, study break, or whenever else. Writing really is fun, and I hope all of you will share your thoughts at some point. I do, and my CV doesn't even bite me back; I'm a proud "staff writer." So write in with your spring break ideas, your favourite restaurants, every pressing real-world matter that strikes you relevant, or just

to tell that writer that complained about editorial work and resume fluff to lay off and be nice. As long as you have something worth saying, say it. Write one, write all; editors are standing by!

Finally, I wish to thank kindly whoever is subjected to the task of editing my article this week, who I do not doubt has done a tremendous job.

## The Goldstone Report, Why You Should Attend Next Week

by Marco Pasquale Frangione (LAW III)

Next Wednesday, the Arab Law Students Association of McGill and the McGill Centre for Human Rights and Legal Pluralism shall be presenting a lecture by Hina Jilani, human rights lawyer and Member of the Goldstone Commission. Without question, the Goldstone Report has been the topic of considerable and highly contested debate. While the international media is warring over its contents, human rights groups and heads of state have been equally polarized by its findings. Why is this so?

Ms. Jilani will provide a first-hand account of the Gaza Mission, its methodology, and the challenges it faced in carrying out its mandate. She will address the Mission's findings of violations of international humanitarian and human rights law by Israeli and Palestinian parties, and the potential of international law to ensure accountability for victims of conflict. The lecture aims to promote an understanding of the context, contribution, and significance of the Goldstone Report, an unprece-

dent legal document in the history of the region that is rapidly gaining international attention through endorsement by the Human Rights Council and the UN General Assembly. Attend and have your say! Whether you're interested in international human rights law or the geopolitics of the region, this event seeks to facilitate discussion and provide students with unique accounts and experiences that could change the way you mold your own career path. Join the ALSA and the Centre for Human Rights and Legal Pluralism for Ms. Hina Jilani's lecture. A question and answer period will follow. See you there at 6pm in the Moot Court.





# Getting Rejected: We don't want your free labour

by Anonymous Student

There's not many worse feelings than opening your inbox and receiving the message "We found ourselves in the position of having a wide range of qualified candidates for a limited number of positions. I regret to inform you that your application was not selected." I know that a lot of law students see this email dozens of times (if not hundreds), during their career at McGill, but it doesn't mean it feels any less like being kicked in the stomach. Hard.

Somehow the latest PFO I received hit me worse than I thought it could. The McGill Human Rights Internships rejection feels like a particular blow to the ego. They don't look at your grades, and the interview is with McGill professors and staff who often know the candidates. How could it feel like anything less than a personal rejection?

But if there's anything I've learned from reading the New York Times a lot, sometimes you feel a lot better when you stop asking what's wrong with you, and starting asking what's wrong with the system that didn't pick you. A box of kleenex's later, rattling off any systemic flaws of this internship selection process can be pretty cathartic.

It's not like there are no warnings that the allocation of these internships feels notoriously arbitrary. In the first few weeks of law school, my law partner informed me, "A lot of people say they give these internships to students who already have all the international experience and connections they need." How do you get experience without having it?

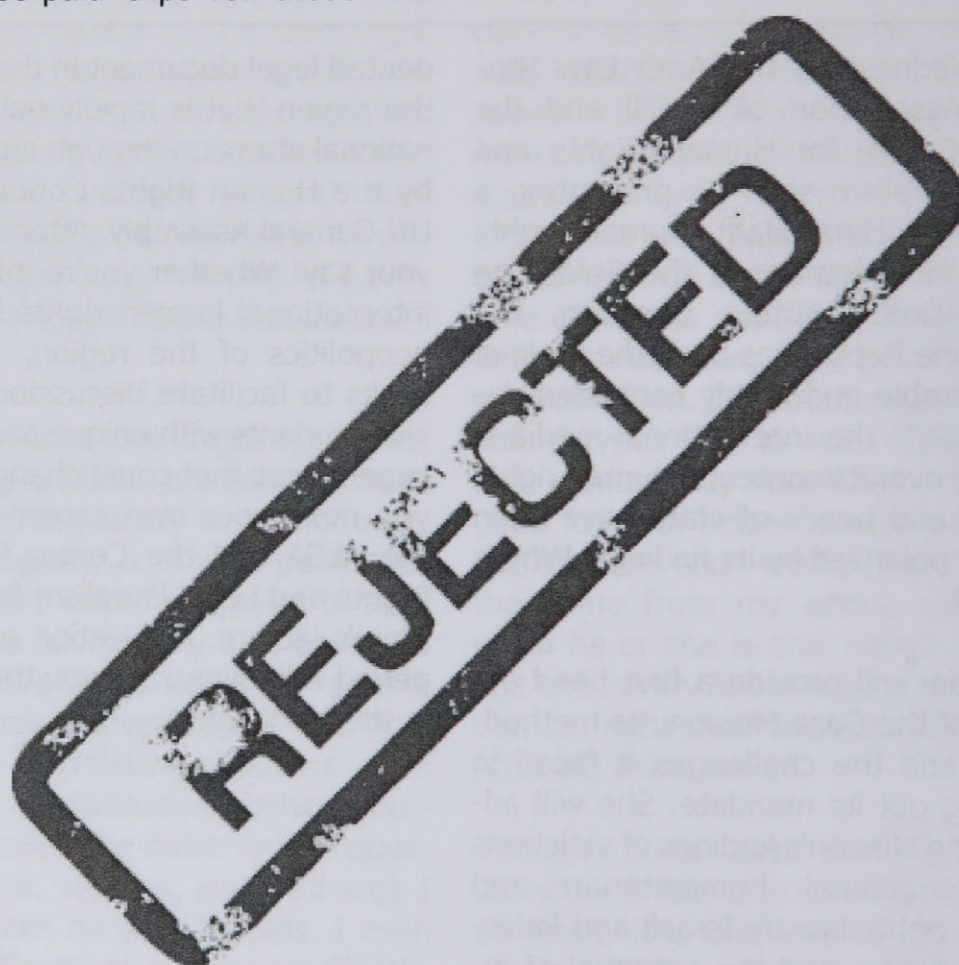
Another awful feeling comes at the moment when your non-law friends say, "They turned you down for a summer job that doesn't even pay?" Your heart sinks even lower. Of course these internships are more than a summer job; they're the entrance key to those international careers they profile in the glossy guidebooks sent out to prospective students. They're hard to come by

if you're not from the kind of family that has ambassadors and judges sitting around the dinner table. These internships are supposed to equalize the playing field and help us get our foot in the door, right?

Sticking to my goal of making myself feel better, I begin to wonder how many of these interns go on to human rights-related careers, and how many of them instead earn \$1500 or \$3000 a week on the 26th floor of some huge corporate law firm. Is the human rights program making a good investment in financing all-expense-paid trips for those who

received, to fund another student's internship? Maybe that would solve nothing, and I still wouldn't get an offer.

Ok, this exercise has left me still wallowing in misery. Telling myself that the system is unfair while I reach for another tissue probably won't get me anywhere, but at the very least, perhaps writing this letter will let someone else stuck in the same boat know that you're not alone.



could easily afford to pay their own way, or who have little commitment to the field beyond a 3 month adventure? This makes me feel worse actually, and angry they got these opportunities instead of me. I gulp a little harder, looking at my student loan agreements and imagine my tuition fees paying for last summer's plane tickets for this year's up and coming civil litigation associates. Can we please ask human rights interns who earn more than \$50,000 - or even \$100,000 - per year in the 5 years after graduation to pay back the subsidy they



*continued from p.2*

I deeply regret my instinctive reaction to disregard the book. I also deeply regret reading about writing law school exams in the summer, when I did not have to either read or write a law school exam. And so for Chase, and all the other L1ers, I would like to share two lessons that may need to be *unlearned* in order to excel at writing law school exams.

*Lesson #1: Undergraduate Exams and the "Information Dump":*

Release yourself from the shackles of undergraduate exam-taking habits. Law school exam questions are not framed in the classic "memorize and regurgitate" format. You are kidding yourself if you think you are going to be asked a question like: "What was the holding in *Carlill v. Carbolic Smoke Ball Co.* and why?"

Don't forget that in an open-book exam, all of your classmates have access to the same material. You are not rewarded for merely "dumping" anything and everything that may or may not be relevant to the question at hand. In fact, you are penalized for it. Remind yourself: it is not how MUCH you say, or even WHAT you say, necessarily. Rather, it is how you choose to apply the material in a way that is both analytical and engaging. Take time to think about what information is best suited to answer the professor's question.

This may or may not seem obvious to you. I thought it was obvious...until I chose to begin my answer on the inherent jurisdiction of superior courts with a brief description about confederation. Let's just say that part of my answer was decorated with a giant "cross off."

*Lesson #2: Sorting through the Law School Rumor Mill:*

Don't believe everything your so-called "wiser" upper year students tell you. As with most rumor mills, there will always be misleading advice hiding within the conventional wisdom imparted by second and third year students.

If you trade in the "information dump" for "helpful hints" from upper year students you will have an unsettling experience come results time.

Let's take the IRAC method for instance: the gist of IRAC is that exam taking can be reduced to four steps:

- 1-**I** spot the issue
- 2-Cite the **r**ule
- 3-**A**pply the rule to the facts presented
- 4- Offer a **c**onclusion that answers the question

Fischl and Paul explain that IRAC, or any similar mechanical formula, is a lot like "attempting to reduce guitar playing to four simple chords: It's not a bad way to start, but until you get well beyond it, no one is going to mistake you for B.B. King."

**We need to consider what the exam will tell us if we let it:**

[a] Map the parties' claims and conflicts: think through exam problems from the perspective of EVERY party involved.

[b] Don't stop at the first issue you see: do not focus like a laser beam on the first familiar issue you see at the expense of excluding other issues lurking in the facts.

[c] If the answer seems too easy, it probably is.

I wish everyone in the faculty the best of luck with exams. Remember that you are human—do not stop acting like one during exams. Take breaks, breathe, balance your time with non-related exam activities.

I look forward to writing again in the New Year.

Happy Holidays!





# Legal Gaming

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